



San Diego City Attorney **MICHAEL J. AGUIRRE**

NEWS RELEASE

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PROPERTY OWNERS MUST BE PRESENT WHEN VEHICLES ARE TOWED; COURT OF APPEALS UPHOLD CITY'S RIGHT TO ENFORCE STATE TOWING LAWS

San Diego, CA: In the case, *Tillison v. City of San Diego*, the Ninth Circuit Court of Appeals yesterday upheld a state statute that requires towing companies to obtain the written authorization from the property owner or the owner's agent before towing a vehicle from private property without the vehicle owner's permission. The California Vehicle Code also requires that the property owner or agent be present for the tow.

"The Court concluded that the California statute is constitutional because it is concerned with public safety and therefore is not preempted by federal law," said City Attorney Michael Aguirre. "The court cited a similar Florida case upholding laws that protect both the vehicle owner and the public from towing mistakes that can lead to confrontations."

The complaint for injunctive relief was filed in U.S. District Court in December 2001 by John Tillison, the owner of a San Diego towing business. The court issued a permanent injunction against the City in February 2003 which prevented the San Diego Police Department from enforcing several sections of the California Vehicle Code on the grounds that they were preempted by a federal law that governs transportation regulations. However, the court noted that state and local regulations concerned with safety are not preempted by federal law.

The case focused on tow companies that engage in a practice known as "patrol towing." The practice involves arrangements between towing companies and owners of private property, frequently apartment complex owners. Under these arrangements, the tow operator patrols the private parking lots and tows cars that the towing company determines are parked in violation of the parking rules. This practice violates state law, which requires that towing companies obtain written authorization from the property owner or his agents every time a vehicle is towed and that the owner or agent be physically present for the actual tow.

"Police officers are frequently called to apartment complexes regarding towing disputes and disturbances," said Police Chief Bill Lansdowne. "Now that the state law has been upheld, such calls for police assistance should be reduced."

The Court of Appeals ruling can be found at www.ca9.uscourts.gov, click opinions.

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